



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

November 3, 2023

BY ECF

The Honorable Jennifer H. Rearden
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *United States v. Martin Handler, et al., 23 Cr. 004 (JHR)*

Dear Judge Rearden:

Pursuant to the Court's March 21, 2023 Opinion and Order (ECF No. 71 (the "Mar. 21, 2023 Op. & Order")), the Government provides below an update regarding the status of its search, pursuant to a search warrant (the "Search Warrant"), of cellphones seized incident to the arrests of defendants Martin Handler, Menachem Lieberman, and Ben Werczberger.¹

1. Lieberman Cellphone

As noted previously, the Government has completed its extraction and review of data from the Lieberman Cellphone, produced the full contents of its extraction to Lieberman only on March 2, 2023, and produced data from the Lieberman Cellphone identified as responsive to the Search Warrant to all defendants on March 31, 2023.

2. Werczberger Cellphone

The Government has extracted data from the Werczberger Cellphone, and the Government produced the full contents of that extraction to Werczberger's counsel only on July 26, 2023, and August 2, 2023. The volume of data extracted from the Werczberger Cellphone is substantial, comprising approximately 204.9 gigabytes.

On August 25, 2023, the filter team notified the prosecution team that it has completed its review of data extracted from the Werczberger Cellphone for potentially privileged material. Thereafter, a forensic examiner at the FBI provided the prosecution team with a set of data released by the filter team. The prosecution team has since begun its review. Today, November 3, 2023, the Government is making its first, rolling production to all defendants of data from the Werczberger Cellphone that has been identified as responsive.

¹ Unless otherwise defined, capitalized phrases are assigned the same meaning set forth in the Mar. 21, 2023 Op. & Order.

3. M. Handler Cellphone

The Government has extracted data from the M. Handler Cellphone, and the Government produced the full contents of that extraction to M. Handler's counsel only on August 18, 2023. The volume of data extracted from the Werczberger Cellphone is substantial, comprising approximately 238.4 gigabytes.

On September 12, 2023, the filter team notified the prosecution team that it has completed its review of data extracted from the M. Handler Cellphone for potentially privileged material. Thereafter, a forensic examiner at the FBI provided the prosecution team with a set of data released by the filter team. The prosecution team has since begun its review. At present, the Government is unable to estimate when it will be able to produce to all defendants any data from the M. Handler Cellphone that is identified as responsive.

Continued retention of the cellphones described above is necessary at this stage of the case, when it is unknown how, if at all, the defense will challenge the accuracy, reliability, or authenticity of the Government's data extraction, or how the defense will challenge chain-of-custody evidence concerning the cellphones.

Respectfully submitted,

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By: /s/

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cc: All Counsel of Record